

# HOUSE BILL No. 1671

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-26-5-2; IC 13-26-11.

**Synopsis:** Regional water, sewage, and solid waste districts. Prohibits a regional sewage district from requiring the owner of a property to connect to the district's sewer system if the property is already connected to a sewer system that was approved by a state governmental entity. Provides that if the board of trustees of a regional water, sewage, or solid waste district consists of one or more appointed members, the board must obtain the written approval of the appointing authority before adopting an ordinance to establish rates or charges for use of the district's works.

**Effective:** Upon passage.

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**Lehe, Klinker, McClain, Gutwein**

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January 23, 2007, read first time and referred to Committee on Environmental Affairs.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## HOUSE BILL No. 1671

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 13-26-5-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A district may  
3 do the following:

4 (1) Sue or be sued.

5 (2) Make contracts in the exercise of the rights, powers, and  
6 duties conferred upon the district.

7 (3) Adopt and alter a seal and use the seal by causing the seal to  
8 be impressed, affixed, reproduced, or otherwise used. However,  
9 the failure to affix a seal does not affect the validity of an  
10 instrument.

11 (4) Adopt, amend, and repeal the following:

12 (A) Bylaws for the administration of the district's affairs.

13 (B) Rules and regulations for the following:

14 (i) The control of the administration and operation of the  
15 district's service and facilities.

16 (ii) The exercise of all of the district's rights of ownership.

17 (5) Construct, acquire, lease, operate, or manage works and obtain



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rights, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property, whether real, personal, or mixed, of a person or an eligible entity.

(6) Assume in whole or in part any liability or obligation of:

(A) a person;

(B) a nonprofit water, sewage, or solid waste project system; or

(C) an eligible entity;

including a pledge of part or all of the net revenues of a works to the debt service on outstanding bonds of an entity in whole or in part in the district and including a right on the part of the district to indemnify and protect a contracting party from loss or liability by reason of the failure of the district to perform an agreement assumed by the district or to act or discharge an obligation.

(7) Fix, alter, charge, and collect reasonable rates and other charges in the area served by the district's facilities to every person whose premises are, whether directly or indirectly, supplied with water or provided with sewage or solid waste services by the facilities for the purpose of providing for the following:

(A) The payment of the expenses of the district.

(B) The construction, acquisition, improvement, extension, repair, maintenance, and operation of the district's facilities and properties.

(C) The payment of principal or interest on the district's obligations.

(D) To fulfill the terms of agreements made with:

(i) the purchasers or holders of any obligations; or

(ii) a person or an eligible entity.

(8) Except as provided in section 2.5 of this chapter, require connection to the district's sewer system of property producing sewage or similar waste and require the discontinuance of use of privies, cesspools, septic tanks, and similar structures if:

(A) there is an available sanitary sewer within three hundred (300) feet of the property line; and

(B) the district has given written notice by certified mail to the property owner at the address of the property at least ninety (90) days before a date for connection to be stated in the notice.

**However, a district may not require the owner of a property to connect to the district's sewer system if the property is already connected to a sewer system that was approved by a**

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**state governmental entity.**

(9) Provide by ordinance for reasonable penalties for failure to connect and also apply to the circuit or superior court of the county in which the property is located for an order to force connection, with the cost of the action, including reasonable attorney's fees of the district, to be assessed by the court against the property owner in the action.

(10) Refuse the services of the district's facilities if the rates or other charges are not paid by the user.

(11) Control and supervise all property, works, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property rights and interests conveyed, delivered, transferred, or assigned to the district.

(12) Construct, acquire by purchase or otherwise, operate, lease, preserve, and maintain works considered necessary to accomplish the purposes of the district's establishment within or outside the district and enter into contracts for the operation of works owned, leased, or held by another entity, whether public or private.

(13) Hold, encumber, control, acquire by donation, purchase, or condemnation, construct, own, lease as lessee or lessor, use, and sell interests in real and personal property or franchises within or outside the district for:

(A) the location or protection of works;

(B) the relocation of buildings, structures, and improvements situated on land required by the district or for any other necessary purpose; or

(C) obtaining or storing material to be used in constructing and maintaining the works.

(14) Upon consent of two-thirds (2/3) of the members of the board, merge or combine with another district into a single district on terms so that the surviving district:

(A) is possessed of all rights, franchises, and authority of the constituent districts; and

(B) is subject to all the liabilities, obligations, and duties of each of the constituent districts, with all rights of creditors of the constituent districts being preserved unimpaired.

(15) Provide by agreement with another eligible entity for the joint construction of works the district is authorized to construct if the construction is for the district's own benefit and that of the other entity. For this purpose the cooperating entities may jointly appropriate land either within or outside their respective borders if all subsequent proceedings, actions, powers, liabilities, rights,

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and duties are those set forth by statute.

(16) Enter into contracts with a person, an eligible entity, the state, or the United States to provide services to the contracting party for any of the following:

(A) The distribution or purification of water.

(B) The collection or treatment of sanitary sewage.

(C) The collection, disposal, or recovery of solid waste.

(17) Make provision for, contract for, or sell the district's byproducts or waste.

(18) Exercise the power of eminent domain.

(19) Remove or change the location of a fence, building, railroad, canal, or other structure or improvement located within or outside the district. If:

(A) it is not feasible or economical to move the building, structure, or improvement situated in or upon land acquired; and

(B) the cost is determined by the board to be less than that of purchase or condemnation;

the district may acquire land and construct, acquire, or install buildings, structures, or improvements similar in purpose to be exchanged for the buildings, structures, or improvements under contracts entered into between the owner and the district.

(20) Employ consulting engineers, superintendents, managers, and other engineering, construction, and accounting experts, attorneys, bond counsel, employees, and agents that are necessary for the accomplishment of the district's purpose and fix their compensation.

(21) Procure insurance against loss to the district by reason of damages to the district's properties, works, or improvements resulting from fire, theft, accident, or other casualty or because of the liability of the district for damages to persons or property occurring in the operations of the district's works and improvements or the conduct of the district's activities.

(22) Exercise the powers of the district without obtaining the consent of other eligible entities. However, the district shall:

(A) restore or repair all public or private property damaged in carrying out the powers of the district and place the property in the property's original condition as nearly as practicable; or

(B) pay adequate compensation for the property.

(23) Dispose of, by public or private sale or lease, real or personal property determined by the board to be no longer necessary or needed for the operation or purposes of the district.

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SECTION 2. IC 13-26-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) **Subject to section 8.1 of this chapter**, the board shall, by ordinance, establish just and equitable rates or charges for the use of and the service provided by a works. The rates or charges are payable by the owner of each lot, parcel of land, or building that:

- (1) is connected with and uses a works; or
- (2) in any way uses or is served by a works.

(b) **Subject to section 8.1 of this chapter**, the board may periodically change and readjust the rates or charges as provided in this article.

SECTION 3. IC 13-26-11-8.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.1. (a) This section applies to a board that contains one (1) or more trustees appointed under:**

- (1) IC 13-26-4-3;
- (2) IC 13-26-4-4; or
- (3) IC 13-26-4-5.

(b) As used in this section, "appointing authority" refers to:

- (1) the elected executive or legislative officers responsible for appointing trustees to the board, in the case of a board that consists of trustees appointed under IC 13-26-4-3;

(2) the:

- (A) governor; or
  - (B) commissioner of the department of correction;
- in the case of a board that consists of one (1) or more trustees appointed under IC 13-26-4-4; or

(3) the:

- (A) executive of the municipality cooperating in the district's sewage treatment under IC 13-26-4-5;
  - (B) fiscal body of the county described in IC 13-26-4-5; and
  - (C) executive of the county described in IC 13-26-4-5;
- in the case of a board that consists of trustees appointed under IC 13-26-4-5.

(c) Before a board described in this section may finally adopt an ordinance to:

- (1) establish, under section 13 of this chapter, rates or charges for the:
  - (A) use of; and
  - (B) service provided by;
 the district's works; or
- (2) change or readjust the rates or charges described in

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1           **subdivision (1);**  
 2           **the board must obtain the written approval from each appointing**  
 3           **authority that has appointed one (1) or more trustees to the board.**

4           SECTION 4. IC 13-26-11-13 IS AMENDED TO READ AS  
 5           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) **Subject to**  
 6           **section 8.1 of this chapter**, the ordinance establishing the initial rates  
 7           or charges, either as:

8                 (1) originally introduced; or

9                 (2) modified and amended;

10           shall be passed and put into effect after the hearing.

11           (b) A copy of the schedule of the rates and charges established must  
 12           be:

13                 (1) kept on file in the office of the district; and

14                 (2) open to public inspection.

15           SECTION 5. IC 13-26-11-14 IS AMENDED TO READ AS  
 16           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The rates or  
 17           charges established for a class of users of property served shall be  
 18           extended to cover any additional premises served after the rates or  
 19           charges are established that are in the same class, without the necessity  
 20           of hearing or notice.

21           (b) **Subject to section 8.1 of this chapter**, a change or readjustment  
 22           of the rates or charges may be made in the same manner as the rates or  
 23           charges were originally established.

24           SECTION 6. **An emergency is declared for this act.**

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